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CENTRAL AFRICAN REPUBLIC

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CONTENTS

		Paragraphs	Page
I.	GEOGRAPHICAL, DEMOGRAPHIC AND ECONOMIC INFORMATION	1 - 12	2
	A. The land	1 - 2	2
	B. The people	3 - 10	2
	C. The economy	11 - 12	3
II.	GENERAL POLITICAL STRUCTURE	13 - 36	4
	A. Political history	13 - 24	4
	B. Organization of powers	25 - 36	6
III.	LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED	37 - 49	9
	A. Organization of the judiciary	40 - 43	10
	B. Systems of compensation and rehabilitation for victims	44 - 49	11
IV.	INFORMATION AND PUBLICITY	50 - 59	12
	A. Dissemination of texts	51	12
	B. Translation of texts into the national language	52	12
	C. Government agencies with responsibility for preparing reports	53 - 54	12
	D. Public debate	55 - 59	13

I. GEOGRAPHICAL, DEMOGRAPHIC AND ECONOMIC INFORMATION

A. The land

1. The Central African Republic is located in the heart of the African continent. It has an area of 623,000 km^2 and is bounded to the north by Chad, to the east by the Sudan, to the west by Cameroon and to the south by the Democratic Republic of the Congo and the Republic of the Congo-Brazzaville. The climate is sub-Saharan in the north and equatorial in the south. There are two seasons: the dry season and the wet season. The country is well watered, but, during the dry season, there is a lack of rainfall in the savannah. Timberland is extensive and there are many subsoil deposits.

2. Administratively, the Central African Republic is divided into prefectures, sub-prefectures, administrative control posts and communes. In the context of decentralization and regionalization, however, the Constitution of 14 January 1995 provides for its division into seven regions (art. 99).

B. The people

1. Population

3. According to the 1988 general population census, the population was estimated at 2,688,428 in December 1988, an average density of 4.3 inhabitants per km^2. By 1995, it should have reached 3 million. It is unevenly distributed throughout the territory. The east, which is sparsely populated, is inhabited by 20 per cent of the population for an area of 53 per cent of the national territory, while the west has 80 per cent of the total population. The majority of the population (1,706,307 inhabitants in 1988, i.e. 63.5 per cent) is rural, as against 36.6 per cent (982,110 inhabitants) in urban areas.

4. An analysis of the 1988 census data shows that the Central African population is young: persons aged under 15 years account for 43.3 per cent of the total population, those aged between 15 and 59, for 51.7 per cent and those over 60, for 5 per cent.

5. The 1988 census gave a figure of 59,314 heads of household, 81.2 per cent of whom are men and 18.8 per cent, women, with 32.8 per cent living in urban areas and 67.2 per cent in rural areas. One woman in six is a head of household in rural areas, as compared to one in four in urban areas.

2. Vital statistics

6. Fertility: Between 1975 and 1988, the crude birth rate dropped from 44 ‰ to 41.6 ‰. Fertility is still high in the Central African Republic because the average number of children per woman rose from 5.9 in 1975 to 6.1 in 1988. Fertility is both early and late. The last census shows that 72 per cent of women give birth by the age of 30. It should also be noted that sterility is a matter of concern in the country. In 1988, it was estimated that 26 per cent of women aged 50 were sterile.

7. Mortality: The level of general mortality has continued to drop in recent years: the crude mortality rate went from 19 deaths per 1,000 inhabitants to 16.7 deaths per 1,000 inhabitants. The highest mortality rates are between 0 and 5 years and after 70 years. The result of the decline in the mortality rate is an increase in life expectancy. There has thus been an annual increase of 0.45 years. Life expectancy has increased according to sex: that of men went from 41 to 47.2 years between 1975 and 1988 and that of women, from 45 to 50.6 years.

3. Ethnic diversity

8. Central African ethnic groups show clear-cut diversity, depending on the environment. However, there are common cultural traits, such as Sango, the national language spoken by everyone.

9. The main ethnic groups are:

(a) The Gbaya group in the west;

(b) The Banda group in the centre-west;

(c) The Bantu group in the south-west, which is composed of the Mbimou, Ngbaka-Mandja, Pandé, Bangando, Mbati and Pygmy sub-groups, all living in the forest region;

(d) The Ubangians, from the savannah and the Nile, include the Ngbaka, Monzombo, Gbanziri and Bouraka sub-groups;

(e) The Ngbandi group is composed of the Sango and Yakoma sub-groups; they are found along the Ubangi River;

(f) The Nzakara-Zandé are located in the east; and

(g) The Sara and Mboum group is in the north.

4. Level of instruction

10. The proportion of illiterate persons is still high: in 1988, 1,478,460 persons did not know how to read and write (63 per cent as against 77 per cent in 1975). There are more illiterate women (76 per cent) than illiterate men (49.1 per cent). The same survey shows that 30 per cent of persons aged 10 and over have completed primary education and only 11 per cent have completed a higher level. Of 358,564 persons who said that they attended school in 1988, there were 221,802 boys and 137,762 girls, a ratio of 161 per cent. This high percentage shows how few girls have access to schooling.

C. The economy

11. The Central African economic situation is a matter of concern. In recent years, it has been characterized by an ongoing socio-political crisis which has torn much of the industrial and commercial fabric and generally

slowed down economic activity. The growth rate of gross domestic product (GDP) in real terms dropped from 2.9 per cent in 1995 to -2 per cent in 1996, a 4.9 per cent difference.

12. The Central African economy is basically agricultural, with the primary sector (agriculture and mining industries) accounting for about 40 per cent of GDP. The main agricultural export crops are coffee, cotton and tobacco. The agricultural subsistence crops are maize, groundnuts, millet, sorghum, sesame and manioc. Animal husbandry and fisheries make a substantial contribution to economic activity. Forestry declined from 1995 to 1996: logging output decreased by 11.7 per cent, from 325,895 m^3 to 278,810 m^3. Mining activity also slowed down in 1995-1996.

II. GENERAL POLITICAL STRUCTURE

A. Political history

13. The Central African Republic acceded to international sovereignty on 13 August 1960 after having been the territory of Ubangi-Shari in the French Overseas Colonial Empire from 27 October 1946 until 1 December 1958. The country's real political development began in 1946 with the promulgation of the fourth French Constitution, which established an assembly allowing deputies elected in the French Overseas Territories to be members of the second chamber of the French Parliament.

14. However, the turning point in the development of the country's political and administrative structures came in 1956, when the Deferre Act granted the Overseas Territories administrative autonomy. This Act gave Ubangi-Shari a territorial assembly following a hotly contested and competitive election between various political groups in 1957. After these elections, the Movement for Social Development in Black Africa (MESAN), the party of the Deputy Mayor of Bangui, Barthélémy Boganda, won all the seats and thus became the ultra-dominant party. Father Boganda, the founder of MESAN, had a very great impact on Ubangian political life from 1946 until 1959, the year of his death.

15. On 16 February 1959, he gave the Central African Republic its first Constitution, which was adopted by the Legislative Assembly. Its promulgation by the President of the Republic officially made the Central African Republic part of the French Community, a kind of very loose federal structure that gave France broad powers in matters forming part of State sovereignty, such as currency, foreign affairs, the army, justice and energy resources. The 1959 Constitution was, however, broadly based on the French Constitution of 4 October 1958 and the regime of the Federal Republic of Germany in that it set up a rationalized parliamentary regime, under which the Parliament is unicameral and the executive, legislative and judicial powers are completely separate, although the President of the Republic is pre-eminent in relations with the Parliament and the Government.

16. Unfortunately, President Boganda's death on 29 March 1959 prevented the newly established institutions from taking shape and becoming consolidated. His successor, President David Dacko, was forced by circumstances as soon as he took power to amend important provisions of the Constitution which

irremediably changed the nature of the parliamentary regime. A new constitutional system was thus established between 1960 and 1964; MESAN became the single party and power was concentrated in the hands of one man at the expense of a power-sharing regime.

17. As a result, a second Constitution was adopted by the National Assembly on 16 November 1964. MESAN, the single party, proposed a single list of candidates for the presidential and legislative elections. The 1964 political regime was a presidential regime under which the censure motion and the right of the President of the Republic to dissolve parliament were revoked. The ministers had no autonomous powers and were entirely accountable to the Head of State, who appointed and dismissed them.

18. The regime lasted only one year because, on 31 December 1965, President David Dacko was overthrown in a coup d'état led by Colonel Jean-Bédel Bokassa, who would govern the country by the constitutional acts he published the day after he took power until 4 December 1976, when the Imperial Constitution was promulgated.

19. The third Constitution provided for a constitutional monarchy and gave the Emperor exorbitant powers which exist in presidential political regimes. It provided for the establishment of a unicameral parliament with residual powers, a constitutional court and a government led by a prime minister. It must be made clear that the Parliament and the Constitutional Court were never set up under the Empire. Moreover, the Constitution of the Empire proclaimed MESAN the single party and vested in it the power to oversee the work of the Government, adopt general policy lines and give the Emperor advisory opinions on any matters he might submit to it. The coup d'état of 21 September 1979 that President David Dacko carried out by means of Operation Barracuda put an end to the one-man rule of Emperor Bokassa I.

20. On 5 February 1981, David Dacko promulgated the fourth Constitution following the National Constitutional Seminar. The March 1981 presidential election was won by the Central African Democratic Union (UDC), the party of David Dacko, who was thus elected President of the Republic. The bodies provided for in the Constitution would, however, not be established because, on 1 September 1981, the army took power again.

21. The leader of the armed forces, General André Kolingba, immediately suspended the Constitution, prohibited political party activity and governed by means of the Military Committee for National Recovery (CMRN). On 26 November 1986, he had a new Constitution adopted by referendum, thereby establishing a stronger presidential regime, institutionalizing the Rassemblement Democratique Centrafricain (RDC), the single party, and setting up a bicameral parliament (National Assembly, lower house; Economic and Regional Council, upper house). These institutions operated normally, even beyond their regulation term of office, as provided for by the Constitution, but, as a result of the democracy movements of the 1990s, the 1986 Constitution was amended successively by Acts Nos. 91.001, 91.003 and 91.013 of 8 March 1991, 4 July 1991 and 28 August 1992. These constitutional amendments established a multiparty system and a parliamentary regime and, ultimately, liberalized political life.

22. From October 1992 until September 1993, the Central African Republic went through a lengthy transition period, since the elections of 25 October 1992 were cancelled by President Kolingba, who found that they involved too many irregularities. During this transition period, the term of office of the President of the Republic was extended on the basis of an agreement by the leaders of the main recognized political parties. The National Provisional Political Council of the Republic (CNPPR) was thus set up as a body composed of wise men who were potential candidates for the office of President of the Republic; it had only an advisory role and no decision-making power.

23. In order to complete this peaceful transition to a legitimate political regime, a joint electoral commission was set up to conduct a voter census and monitor electoral operations. It was composed of representatives of the party in power and of the opposition political parties. It was equipped with adequate human, financial and material resources to ensure the success of the August and September 1993 elections, which brought to power the candidate of the Central African People's Liberation Movement (MLPC), President Ange-Félix Patassé, the present Head of State of the Central African Republic.

24. In his political programme, Mr. Patassé promised the people a new Constitution, which he had adopted by referendum on 28 December 1994 and promulgated on 14 January 1995. According to Central African constitutional experts, this Constitution is a synthesis of the 1959 and 1981 Constitutions. Its main innovations are the following:

(a) The restriction of the length of the presidential term of office;

(b) The establishment of a genuine parliamentary regime with a unicameral parliament;

(c) A constitutional court set up to monitor the constitutionality of the laws, power-sharing by the authorities and the protection of the freedoms of citizens;

(d) A judiciary composed of two types of courts: ordinary and administrative courts;

(e) The establishment of regions.

B. Organization of powers

25. According to article 17 of the Constitution, the State takes the form of a republic. The Central African State is a sovereign, indivisible and secular State which is subject to the rule of law and in which the separation of powers is quite clear cut, as will be seen below.

1. The executive

26. The executive has two arms and is composed of the President of the Republic and the Government led by a Prime Minister.

27. The President of the Republic, who is elected by direct universal suffrage for a six-year period, renewable once, embodies national unity and guarantees the continuity of the State. The powers vested in him by the Constitution are broad and numerous. In particular:

(a) He appoints the Prime Minister and terminates his functions;

(b) He appoints the other members of the Government on the proposal of the Prime Minister and terminates their functions under the same conditions;

(c) He is the head of the executive power and, as such, presides over the Council of Ministers, promulgates laws and ordinances and signs decrees;

(d) He is the supreme commander of the army and, as such, presides over the National Defence Council;

(e) He is the President of the Supreme Council of the Judiciary;

(f) He negotiates and ratifies international treaties and agreements and issues accreditations to ambassadors and envoys;

(g) He exercises the right of pardon;

(h) He exercises emergency powers in the event of a serious crisis affecting the life of the country or the institutions of the State (art. 26 of the Constitution).

28. The Prime Minister, who is the head of the Government, is chosen by the President of the Republic from among influential persons belonging to the majority party in the Parliament. He is responsible for implementing the policy adopted by the President of the Republic (art. 37). In political and administrative terms, he conducts and coordinates government action. The administration is at his disposal and he appoints civil servants on the orders of the Head of State.

29. He presides over the cabinet and inter-ministerial committees on the basis of an agenda approved by the Head of State (art. 37 *in fine* of the Constitution). He is also responsible both to the Head of State and to the National Assembly. In the exercise of his functions, he may delegate some of his powers to the Ministers (art. 40 of the Constitution).

30. Articles 41, 42 and 43 of the Constitution define the powers of the members of the Government. Some of the powers vested in the Government by the Constitution relate specifically to the consideration by the Government, sitting as the Council of Ministers, of the following matters:

(a) The general policy of the Republic;

(b) The draft plan;

(c) Draft amendments to the Constitution;

(d) Appointments to certain civil and military posts.

The members of the Government thus have to appear before Parliament, during a special session of the Assembly, to answer the oral and written questions asked by the deputies in the areas within their competence.

2. Parliament

31. Parliament, which has a single chamber, has the powers traditionally recognized in a parliamentary regime. The deputies are elected by direct suffrage for a five-year period. The members of the National Assembly elect their President, who has the same term of office as the legislature. The deputies are protected in the exercise of their functions and, when the Assembly is not in session, by the parliamentary immunities provided for in article 49 of the Constitution.

32. The powers of the National Assembly are those of a traditional parliamentary regime. They may be divided into four main categories:

(a) The adoption of laws;

(b) Monitoring government action by means of a vote of confidence and a censure motion;

(c) Written and oral questions and commissions of inquiry;

(d) Authorizing the Government to declare war.

33. The scope of the law is very broad, but article 58 of the Constitution sets its limits. In addition, the ratification or denunciation of international agreements and treaties by the President of the Republic is possible only with the authorization of the National Assembly (art. 66 of the Constitution).

3. The judiciary

34. Prior to the 1995 Constitution, judicial power was exercised by the Supreme Court, which consisted of a constitutional chamber, an administrative chamber, a judicial chamber and a financial chamber.

35. At present, however, the Supreme Court has been divided up differently and, as in France, there are two types of courts:

(a) Ordinary courts (Court of Cassation, Court of Appeal, courts of major jurisdiction and labour courts); and

(b) Administrative courts (Council of State, Court of Conflicts and Court of Audit).

There are also special courts, namely, the High Court of Justice and the Permanent Military Court.

4. Other bodies provided for by the Constitution

36. Title IX, article 97, of the Constitution provides for the establishment of the Economic and Social Council, which plays an advisory role because it must be consulted by the Government on any economic, social or cultural plan or draft programme of action. Its opinion is also requested on any proposal and any bill, ordinance, decree or other necessary measure to promote the Central African Republic's economic, social and cultural development. It is composed of representatives of the country's socio-occupational sectors. Article 15 of the Constitution of 14 January 1995 also provides for the establishment of an independent body, known as the National Broadcasting Commission, which monitors freedom of expression in the Central African Republic.

III. LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

37. With regard to the judicial, administrative and other authorities with jurisdiction affecting human rights, article 1 of the Constitution of 14 January 1995 provides that: "Human beings are sacred. All public officials have an absolute obligation to respect and protect them". This provision assigns such jurisdiction to "all public officials" absolutely and without exception.

38. In addition to public officials, there are several non-governmental organizations and other bodies with jurisdiction affecting human rights:

(a) The Association of Central African Women Jurists (AFJC), whose main responsibility is to find appropriate solutions to the legal problems of Central African women, in particular, and of African women, in general;

(b) The Central African Human Rights League (LCDH), whose objectives are the promotion and protection of fundamental human rights and individual and collective freedoms;

(c) The Episcopal Justice and Peace Commission of the Catholic Church, whose main responsibility is to reduce social injustice and insecurity;

(d) Action of Christians for the Abolition of Torture and the Death Penalty (ACAT), whose objective is to create awareness of the scandal of torture and other cruel, inhuman or degrading treatment or punishment, as well as capital punishment, without discrimination as to political regime;

(e) The Central African Bar Association, whose responsibility is to monitor the ethics of the legal profession;

(f) The National Office of the Association of African Jurists in Bangui, whose basic responsibility is to create a broad current of opinion in favour of the promotion and protection of human rights and individual and collective freedoms as a prerequisite for the self-managed and integral development of African peoples.

39. There are two other institutions:

(a) The National Human Rights Commission (CNDH), a national institution established by Act No. 91.009 of 25 September 1991, whose main responsibility is to monitor respect for fundamental human rights throughout the national territory (see paras. 49, 53, 55 and 56 below);

(b) The National Commission to Follow Up the United Nations Convention on the Rights of the Child, which monitors the implementation of the provisions of the Convention and prepares reports on the situation of children for the Committee on the Rights of the Child in Geneva (see paras. 49 and 54 below).

A. Organization of the judiciary

40. Before considering the sensitive issue of the remedies available to an individual who claims that any of his rights have been violated and the systems of compensation and rehabilitation for victims, the organization of the judiciary will be described in order to show how remedies may be exhausted. The organization of the Central African judiciary is the result of Act No. 65/75 of 23 December 1965. The hierarchy is as follows:

(a) Courts of minor or police jurisdiction;

(b) Courts of major jurisdiction;

(c) The Court of Appeal and the Supreme Court.

That Act was repealed by Act No. 95.010 of 22 December 1995.

41. Justice is thus done throughout Central African territory by the Court of Cassation, the Council of State, the Court of Audit, the administrative court and the ordinary courts. One of the major innovations introduced by the 1995 Act is that the single Court of Appeal and the Court of Cassation have specialized divisions. In the Court of Appeal, there is a civil and commercial division, a correctional division and a social division. The Court of Cassation has a civil and commercial division, a criminal division and a social division.

42. In addition to the ordinary courts, there are the following special courts:

(a) The Labour Court;

(b) The Permanent Military Court, which is governed by Order No. 85/015 of 19 April 1985 and whose decisions may be appealed to the Court of Cassation;

(c) The High Court of Justice, which is governed by Order No. 87.052 of 28 November 1987, was amended by another order in 1996. It has jurisdiction to try the Head of State only in the event of treason and ministers and deputies on the basis of an implementation decision taken by a two-thirds majority of the National Assembly. The decisions of this court cannot be appealed. It should be noted that lawyers have full access to courts of all kinds.

43. Administrative appeals are made to the Council of State (arts. 24, 25 et seq. of Act No. 95.012 of 23 December 1995). It should be pointed out that administrative courts have been re-established. In criminal, civil, commercial and social cases, appeals are filed with the Court of Cassation. In criminal cases, special provisions relating to remedies are contained in Act No. 61/265 establishing the Central African Code of Criminal Procedure and Act No. 95.011 on the organization and operation of the Court of Cassation. In social cases, special provisions and remedies are contained in chapter III, articles 86 et seq., of that Act. In civil cases, provisions relating to remedies are contained in Act No. 91.016 of 27 December 1991 (title 14, arts. 491 et seq., of the Code of Civil Procedure).

B. Systems of compensation and rehabilitation for victims

1. Compensation

44. In the Central African Republic, the compensation procedure is not provided for as in France, where the Court of Cassation is empowered to conduct the proceedings. The persons concerned usually use the arbitrary arrest procedure to obtain compensation for any loss or injury they have suffered.

2. Rehabilitation

45. The defendant may have his rights restored and that is reflected in the fact that rehabilitation quashes the conviction and any resulting future disqualification (art. 289 of the Central African Code of Criminal Procedure).

46. The rights provided for in the various human rights instruments are protected by the Constitution of the Central African Republic. The other laws and regulations in force do not derogate from these international instruments. The Central African Republic has signed and ratified most international instruments, but the problem of their incorporation is still a matter of approach. These important documents are separate from national law. The fact that they cannot be invoked in the courts causes a reaction on the part of some judges, who strictly apply the two universally recognized principles of "no offence without a law" (nullum crimen sine lege) and "no penalty without a law" (nulla poena sine lege).

47. This problem has not been solved, however, since opinions are still divided. Some persons think that, when human rights instruments are signed and ratified, they are de facto applicable, while, in the opinion of others, these instruments must be incorporated into internal law in accordance with the principle of integration by reference in order to be applicable, even though they have been signed and ratified. These persons consider that international instruments have to be adapted and brought into line with our laws and regulations before they can be implemented.

48. In view of this duality, the Constitution of 14 January 1995 decided that "As soon as they are published, properly ratified or approved treaties and agreements shall take preference over national laws". The administrative and judicial authorities therefore have to apply them and individuals can invoke or refer to them directly in the courts.

49. There are national bodies responsible for monitoring respect for human rights, namely, the National Human Rights Commission and the National Commission to Follow Up the Convention on the Rights of the Child, but they are not in operation; this is the case of the National Human Rights Commission, in particular, the decree for which has been published, but is so far inoperative.

IV. INFORMATION AND PUBLICITY

50. This section is supposed to indicate whether any special efforts have been made to promote awareness among the public and the relevant authorities of the rights contained in the various United Nations human rights instruments.

A. Dissemination of texts

51. National and international legal texts are disseminated primarily by the national media: radio, television and press. From independence until the present, radio has been the main means, since the other media, which are few in number and not very effective, do not reach the population as a whole. Surveys of the various social sectors in urban areas show that the few Central Africans who possess human rights instruments do not know what they contain, whereas the majority is totally unaware of these documents. Some members of non-governmental human rights organizations even said that they joined only so that they could be defended by their peers if their rights were violated.

B. Translation of texts into the national language

52. Sango is the national language that is spoken throughout the national territory. Since independence, efforts have been made to have some documents translated into Sango, but, so far, no human rights text has been translated into this language. The same is true of nearly all legal texts in the country, which continue to be drafted in French. The problem of the translation of texts into Sango is a serious handicap for the Central African Republic and one to which the authorities have not yet found a solution. There are translation plans, but they are still at the project stage.

C. Government agencies with responsibility for preparing reports

53. It is difficult to know whether government agencies were set up to prepare reports after independence and whether such agencies have received information and other data from outside sources. It was therefore necessary to wait until 1991 for the Government to be forced by events to establish the National Human Rights Commission (Act No. 91.009 of 25 September 1991). Until recently, it was the only government agency authorized to prepare reports. Although it was, at the time, part of the Office of the President of the Republic, the National Human Rights Commission faced a number of problems, particularly financial and political problems, and was unable to operate normally. In view of the obstacles to the smooth functioning of this government agency, it is hard to say whether it has received information and other data from outside sources.

54. Following the Central African Republic's ratification of the United Nations Convention on the Rights of the Child in 1992 and as a result of the need to establish national follow-up and implementation machinery for the Convention, the National Commission to Follow Up the Convention on the Rights of the Child was established in April 1993. The Commission established a drafting committee which prepared the initial report of the Central African Republic on measures adopted to give effect to the rights recognized in the Convention (CRC/C/11/Add.18, submitted on 15 April 1998).

D. Public debate

55. It is difficult to answer the question whether the contents of reports are the subject of public debate in the country. As stated above, the National Human Rights Commission has practically not been in operation and has not really played its assigned role of preparing reports. Even if the Commission had managed to prepare a report, it would have been difficult for the single party regime of the time to agree that it should organize a public debate, particularly as article 14 of Act No. 91.009 establishing the National Human Rights Commission prohibited the publication of cases of human rights violations.

56. At present, the National Human Rights Commission is subject to the orders of the Ministry of Justice. The new law allows it to publish verified and established cases of human rights violations. Unfortunately, the new Commission is not yet operational. Contrary to the National Human Rights Commission, it is planned that the National Commission to Follow Up the Convention on the Rights of the Child will organize a public debate on the initial report and disseminate the report widely.

57. In conclusion, it may be said that special efforts have been made only in the last few years to promote awareness among the public and the relevant authorities of the rights contained in human rights instruments. These efforts are being made by non-governmental human rights organizations, as seen above, through seminars and radio and television broadcasts.

58. It must, however, be stressed that these efforts are still inadequate because the country has material and financial problems. These constraints do not make it easy to provide information to the public on the protection of its fundamental rights, particularly to the poorest, most deprived and weakest sector of the population living in rural areas. This sector of the population is still unaware of the various human rights documents. Information for Central Africans and the publication of human rights instruments are, at present, essential, both for the relevant authorities of the country and for the population, which must make an effort to know its rights.

59. Ultimately, enormous efforts and sacrifices still have to be made to determine the most effective ways of informing, educating and training Central Africans to understand the concept of human rights, for, if we look at the impact on public opinion of awareness campaigns on the AIDS epidemic, it is obvious that Central Africans are better informed about the problem of AIDS than about problems of human rights.